

IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA

DANIEL V. LO SASSO,	:	
Plaintiff	:	
	:	
vs.	:	CIVIL NO. 1:CV-08-1043
MICHAEL J. ASTRUE,	:	(Judge Caldwell)
Commissioner of Social	:	
Security,	:	(Magistrate Judge Blewitt)
Defendant	:	

O R D E R

THE BACKGROUND OF THIS ORDER IS AS FOLLOWS:

We are considering the Report and Recommendation by the Magistrate Judge recommending we deny Plaintiff's, Daniel Lo Sasso, appeal in his Social Security action. Plaintiff essentially raises three objections to the Magistrate Judge's recommendation, namely: 1) the Magistrate Judge erred in applying the substantial evidence standard; 2) the Administrative Law Judge ("ALJ") and Magistrate Judge erred in denying his request for a subpoena; and 3) the Magistrate Judge and the ALJ erred in determining that he was not disabled.<sup>1</sup> Since objections were filed, the Court must "make a *de novo* determination of those

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<sup>1</sup> Plaintiff's motion raises four objections. However, objection three and four can be conflated into one objection, disagreeing with the determination that he is not disabled. See Pl.'s Objection to Decision.

portions of the report or specified proposed finding or recommendations to which objection is made." 28 U.S.C. § 636(b)(1)(c).

Contrary to Plaintiff's objection, the Magistrate Judge appropriately applied the substantial evidence standard found in *Pierce v. Underwood*, 487 U.S. 552, 108 S.Ct. 2541, 101 L.Ed.2d 490 (1988) and *Hartranft v. Apfel*, 181 F.3d 358, 360 (3d Cir. 1999). Thus, we will deny Plaintiff's objection.

Plaintiff contends that the ALJ and Magistrate Judge erred when they denied his request for a subpoena to access his medical records. Local Rule 72.2 provides that "[a]ny party may appeal from a magistrate judge's order determining a non-dispositive pretrial motion or matter in any civil...case...within ten (10) days after issuance." Local Rule 72.2. The Magistrate Judge issued his order denying a subpoena on January 27, 2009. (doc. 21). Plaintiff is well beyond the ten day period allowed by the local rules to appeal the order to this Court. We will, therefore, deny his objection.

Finally, after review of the record, we agree with the Magistrate Judge's determination that substantial evidence supported the ALJ's determinations. We see no reason for further comment since our reasoning follows that of the Magistrate Judge's Report on this issue.

AND NOW, this 30th day of April, 2009, it is ordered  
that:

1. The Magistrate's Report (doc. 23),  
filed March 19, 2009, is adopted.
2. Plaintiff's objections are denied.
3. Plaintiff's appeal is denied.
4. The Clerk of Court shall close this  
file.

/s/William W. Caldwell  
William W. Caldwell  
United States District Judge